

OFFICE OF THE ATTORNEY GENERAL 91-00180



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STATE OF ALABAMA

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Municipalities - Mayors - Budgets
- Veto

Budget not subject to veto of
mayor as being "of permanent
operation" and, under facts
presented, budget does not fix
salaries of employees and
officers.

Dear Mr. Aycock:

This opinion is issued in response to the request of the City
of Northport for an opinion from the Attorney General.

QUESTIONS

Your request presents the following questions:

(a) Does the Mayor of the City of
Northport have the authority, under the laws
of the State of Alabama, to veto an
amendment to the budget for the fiscal year?

(b) Does the Mayor of the City of
Northport have the authority, under the laws
of the State of Alabama, to veto the entire
budget for a fiscal year?

(c) Does the Mayor of the City of Northport have the authority, under the laws of the State of Alabama, to veto a portion of the budget for a fiscal year (i.e., a line item veto) and, if so, what limitation, if any, is there on the specific items which may be vetoed by the Mayor within the budget for the fiscal year?

FACTS AND ANALYSIS

Nothing contained in Code of Alabama 1975, § 11-45-3 through § 11-45-5 permits the mayor to veto the budget because it is "of permanent operation." A budget, by its very nature, lasts for only one year and, thus, does not remain in effect until repealed.

However, Section 11-45-5 does permit the mayor to veto in whole or in part "every ordinance and resolution fixing the salaries of employees and officers." A review of both the budget and the amendment to the budget reveals that neither the budget nor the amendment fixed the salaries of employees or officers. The budget does contain appropriations by department for personnel, and the amendment does increase the total amount of salaries and wages for the fire department. However, it does not appear that these matters are "fixing the salaries of employees and officers."

CONCLUSION


Therefore, it is the opinion of this office that the mayor does not have the authority to veto any part or all of the budget for the fiscal year based upon his authority to veto ordinances or resolutions "of permanent operation." The mayor may veto ordinances and resolutions fixing the salaries of officers and employees. It is, however, the further opinion of this office that, under the facts presented, neither the resolution nor the amendment to the budget constitutes "ordinances or resolutions fixing the salaries of officers and employees."

Honorable E. Kenneth Aycock
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I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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